IN THE HIGH COURT OF BOMBAY AT GOA

MISC.CIVIL APPLICATION NO. 945 OF 2005

IN

STAMP NUMBER MAIN NO. 2957 OF 2005

MRS. BRIGIDA DE SOUZA, PANAJI GOA. ....Applicant

Versus

MR. JUINO DE SOUZA, MUMBAI. ....Respondent

Ms. Susan Linhares, Advocate under legal aid scheme for the Applicant.
Mr. M. D'Souza, Advocate for the Respondent.

Coram:- P.V. KAKADE, J.

Date:- 27th September, 2006

P.C.:

Heard both the parties.

This is an application for condonation of delay of 253 days for filing First Appeal.

The record shows that the delay occured as the earlier order claimed under Order XXXIII, Rule 3 C.P.C., seeking permission to sue as a pauper before the District Judge, Panaji was made, which finally came to be dismissed. Thereafter, the District Court was of the view that cause was beyond the pecuniary jurisdiction of the said Court and hence the First Appeal is being filed which was delayed. It is also submitted that the applicant is a poor lady and has successfully sought free legal aid scheme through the Goa State Legal Services Authority. Hence, in the entire process the delay occured in filing the appeal.

The learned Counsel for the respondent raised various objections. Firstly, it was submitted that once the application under Order 33 came to be dismissed, it attained finality and, therefore, the applicant should not have been granted the legal aid through State Legal Authority. In view of this action, it must be noted that the considerations to adjudicate application under Order 33 of C.P.C. are quite distinct from the rules framed in Goa State Legal Services Authority, which the concerned pannel has thought it fit to grant free legal aid. In other words, I see that there is sufficient ground made out to seek condonation of delay.

In the result application is made absolute in terms of prayer clause (10) and stands disposed of with no orders as to costs.

P.V. KAKADE, J.

NH